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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Robert L. FITZSIMMONS, Jr. Examiner: Mahmoud Fatahi Yar

Serial No.: 09/881,216

Art Unit: 2674

Filed: June 15, 2001

Confirmation No.: 5137

For: **METHODS AND SYSTEMS FOR OPERATING A DISPLAY FACILITY OR
OTHER PUBLIC SPACE**

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Appellant appeals from the final rejection dated June 14, 2005. The Notice of Appeal was filed on December 13, 2005. The Appellant respectfully submits the following appeal brief under 37 C.F.R. § 41.37, the period for submission being extended to April 13 by the accompanying Petition for Extension of Time.

The Appellant does not believe that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. If additional extensions of time are necessary, however, to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to our Deposit Account No. 50-1283.

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee, Vulcan, Inc., a corporation duly organized under the laws of Washington, and having its principal place of business at 505 Union Station, 505 Fifth Avenue South, Suite 900, Seattle, Washington 98104.

II. RELATED APPEALS AND INTERFERENCES

Appellant is not aware of any pending appeals, interferences, or judicial proceedings that may be related to, directly affect, or be directly affected by or have a bearing on the Board's decision in the present appeal.

III. STATUS OF CLAIMS

Claims 1-20 are cancelled.

Claims 21-41 are pending.

Claims 21-41 are rejected.

Claims 21-41 are appealed.

IV. STATUS OF AMENDMENTS

The Appellant has not filed any amendments subsequent to the final rejection dated June 14, 2005.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The patent application discloses methods and systems for allowing visitors of public spaces, such as museums, retail stores and/or convention centers, to select and receive detailed information about items located within the public space when the visitor is outside of the public space. Broadly, the patent application discloses receiving an input related to an element within a public space from a visitor who is within the public space and sending supplemental information, based on the received input, to the visitor when the visitor is outside of the public space. A concise explanation of the subject matter defined in independent claims 21, 29 and 34-36, each of which are involved in the appeal, follows.

Claim 21 is directed to a method of supplementing the experience of a visitor to a public space that includes a set of elements. Such spaces can include, for example, museums, retail stores, sporting arenas and/or open air exhibits. Specification page 5, lines 20-22; Fig. 4. The specification discloses that elements within a public space include items such as static objects, video displays and/or merchandise. Specification page 6; lines 1-2. The claimed method includes receiving an input relating to one of the public space elements from a visitor when the visitor is in the public space. Based on the received input, supplemental information is then sent to the visitor when the visitor is outside of the public space.

The specification discloses that the input can be received from the visitor by a user selection device 100. Specification page 6, lines 13-23; Fig. 1. The user selection device 100 can include a touch screen 364 (see Fig. 3), various input keys 115, 130, 135, etc. (see Fig. 1) and/or a bar code scanner for receiving input from the visitor. Specification page 8, lines 8-12; Specification page 11, lines 1-2; Figs. 1 and 3. In some embodiments, the input is recorded and

associated with a unique user profile, which is then used to determine the content of the supplemental information to be sent to the visitor when the visitor has left the public space. Specification page 22, line 20 – page 23, line 10. In this manner, the disclosed method allows a visitor's experience to be extended beyond the actual public space.

Claim 29 is directed to a method for providing information about a public space element to a visitor after the visitor has left the public space. The method includes transmitting electronically, within the public space, information about a set of public space elements. The transmitted information includes selection information that designates one or more pieces of supplemental information about one or more of the public space elements. The specification discloses that the information can be transmitted to a portable interface device 300 via one of a plurality of RF antennae 438 included within the public space 400. The information, which is displayed to the visitor via the portable interface device 300, can include context sensitive menu selections, help functions, audio clips and/or other information corresponding to the public space elements. Specification page 11, lines 8-17; Fig. 4.

The method then includes receiving an electronic response to the transmitted information. The specification discloses that the visitor can provide such a response, for example, via input keys and/or a touch screen located on the portable selection device 100. Specification page 8, lines 7-17; Figs. 1 and 3. In response to the electronic response, supplemental information related to one of the plurality of public space elements is retrieved. Such supplemental information can include, for example, more detailed information relating to those items selected by the visitor's response. Specification page 15, lines 1-2.

The method then includes sending electronically the retrieved supplemental information to a communications network extending beyond the public space using address information

related to the visitor supplying selection information. The specification discloses that the supplemental information can be sent beyond the public space to a library workstation 560 located beyond the public space or by the world-wide web (WWW) to other computers located anywhere in the world. Specification page 14, line 19 – page 15, line 5; Fig. 5.

Claim 34 is directed to a system configured to provide to a visitor information about an element in a public space after the visitor has left the public space. The system includes a portable selection device, an internal information transmission system, a database in communication with the internal information system, and an external information transmission system responsive to a selection received from the portable selection device and configured to send information from the database to a data network.

In some embodiments, the portable selection device 100 is a handheld device configured to send and receive information. Specification page 6, lines 20-23; Fig. 1. In other embodiments, the portable selection device 300 includes an IR receiver 370 configured to send and receive information. Specification page 8, lines 4-6; Fig. 3. The specification discloses that the internal information transmission system, which is located within the public space, includes an IR transmitter 434 configured to send information to and receive information from the portable selection device 300. Specification page 10, lines 3-5, Fig. 4. In some embodiments, the internal information transmission system includes an RF LAN 530 configured to upload data to and download data from the portable selection device 300. Specification page 14, lines 16-19, Fig. 5. In this manner, a bi-directional data path between the portable selection device and the internal information transmission system is formed, as recited in claim 34.

The specification discloses that one or more databases are in communication with the internal information transmission system. For example, the IR transmitters 434 are in

communication with an exhibit server 444. Specification page 10, line 15; Figs. 4 and 5. Additionally, a user profile database 454 is in communication with the internal information transmission system via a communications network 460. Specification page 14, lines 1-7; Fig. 4 and 5.

The external information transmission system can include a data network located external to the public space. The data network can be, for example, a communications network 460 configured to connect a variety of servers and databases and/or a fast communications network 550 configured to connect the servers and databases to a world-wide web site station 570. Specification page 14, lines 1-12; Fig. 5. The specification discloses that the external information transmission system is configured to respond to a selection received from the portable selection device by sending information, such as more detailed information pertaining to selected public space elements, to a workstation 560 via the data network 550. Specification page 14, line 22 – page 15, line 6; Fig. 5.

Claim 35 is directed to a method for supplying supplemental information about a public space element to a visitor after the visitor has left the public space. The method includes receiving an electronic request for first information about a public space element from a visitor in the public space. The first information is then transmitted to the visitor in the public space. A supplemental information selection is then received from the visitor in the public space. Visitor identification information, such as a unique identification number or an e-mail address, is then associated with the supplemental information selection. Next, an electronic inquiry is received from the visitor after the visitor has left the public space. Finally, the claimed method includes responding to the electronic inquiry with supplemental information selected based on the

received supplemental information selection associated with visitor identification information corresponding to the visitor from whom the electronic inquiry was received.

As discussed above, the specification discloses that the electronic request for first information can be received from a visitor in the public space via a user selection device 100. Specification page 6, lines 13-23; Fig. 1. In some embodiments, the first information is transmitted to the visitor by a portable interface device 300, which is configured to retrieve a file from an internal hard disk 336 in response to the electronic request. Specification page 12, line 22 – page 13, line 4; Fig. 3. In other embodiments, the first information is transmitted to the portable interface device 300 by an IR transmitter 434 located within the public space. Specification page 10, lines 3-5, Fig. 4.

The specification discloses that in some embodiments, upon receiving the first information, additional menu options are presented to the visitor to allow the visitor to select supplemental information. Specification page 11, lines 14-16; page 12, lines 16-19. The supplemental information request is received from the visitor via a user selection device 100, as discussed above. For example, the user selection device 100 can include various input keys for receiving input from the visitor. Specification page 8, lines 8-12; Fig. 1. In some embodiments, the supplemental information requests (i.e., the keystrokes or bookmarks) are recorded and associated with a user profile. The user profile can include such items as a unique user identifier. Specification page 22, line 20 – page 23, line 10.

The specification discloses that electronic inquiries can be received from the visitor after the visitor has left the public space by a library workstation 560 and/or a remote computer connected to the world-wide web 570. Specification, page 14, line 22 – page 15, line 6; page 23, lines 5-10; Fig. 5. Such electronic inquiries can be, for example, requests for more information

about what is on display within a museum. The specification discloses that such electronic inquiries are responded to by providing supplemental information based the recorded keystrokes and/or bookmarks (i.e., the supplemental information selections) and the corresponding visitor identification. Specification page 23, lines 5-18.

Claim 36 is directed to a method of supplementing an experience of a visitor to a public space. The method includes receiving an electronic input relating to a public space element from a visitor when the visitor traverses the public space. Next, the received input is associated with identification information associated with the visitor, such as a unique visitor number. An electronic request for additional information, which includes the visitor identification, is then received from the visitor after the visitor has left the public space. Finally, in response to the electronic request for additional information, a response is transmitted, the response being based in part on input received from the visitor when the visitor was traversing the public space.

As described above, the specification discloses that the input can be received from the visitor by a user selection device 100. In some embodiments, the input is recorded (as keystrokes and/or bookmarks) and associated with a unique user profile, which is then used to determine the content of the additional information to be sent to the visitor when the visitor has left public space. Specification page 22, line 20 – page 23, line 10. Finally, as described above, the additional information can be transmitted via a data network to a library workstation 560 and/or a remote computer connected to the world-wide web 570.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 21-41 are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 6,169,498 to King et al. (“*King*”) in view of U.S. Patent No. 6,879,835 to Greene et al. (“*Greene*”).

VII. ARGUMENT

Appellant challenges the rejection of claims 21-41 on the grounds identified above. These claims were not properly rejected for the reasons cited below.

A. Greene is not Prior Art Under 35 U.S.C. § 102

Claims 21-41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *King* in view of *Greene*. Prior to evaluating the content of the cited references, one must first determine whether the cited references are prior art under 35 U.S.C. § 102. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1568 (Fed. Cir. 1987); *See also* MPEP 2141.01. Here, *Greene* is not prior art under 35 U.S.C. § 102, and as such, it cannot be used to support a rejection under 35 U.S.C. § 103. The filing date for the application at issue is June 15, 2001. *Greene* was filed approximately six months later, on December 4, 2001, and does not claim the benefit of any earlier filed parent application. Accordingly, *Greene* cannot be used to support the rejection under 35 U.S.C. § 103.

B. Rejection Under 35 U.S.C. § 103(a) over King

Having removed *Greene* as prior art under 35 U.S.C. § 102, the Appellant respectfully asserts that the rejection of claims 21-41 under 35 U.S.C. § 103 is improper for at least the reason that *King* fails to disclose or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981 (CCPA 1974); *See also* MPEP 2143.03.

King is directed towards a method and portable device for communicating location-specific messages to a user within a facility. Unlike the independent claims being appealed, however, *King* fails to disclose or suggest that certain information is accessible by or to a visitor of a public space after the visitor has left the space. For example, claim 21 recites “sending

supplemental information to the visitor when the visitor is outside of the public space.”
· Similarly, each of claims 29, 34 and 35 recite supplying information to a visitor to a public space
· “after the visitor has left the public space.” Finally, claim 36 recites “receiving an electronic request for additional information from the visitor after the visitor has left the public space.”

Conversely, *King* fails to distinguish between operations occurring within the public space and operations occurring outside the public space. Rather, *King* is concerned with the distribution of information to a user while the user is in a public space.

Additionally, the Appellant further notes that the Examiner has in essence conceded that the current claims are not anticipated by *King*. More specifically, the Examiner specifically quoted a number of claimed features that he acknowledged were not shown by *King*. See Office Action mailed June 14, 2005, pages 2 to 3. Also see Office Action mailed July 20, 2004, page 3. Similarly, an earlier rejection of the claims as being unpatentable under 35 U.S.C. § 103 over *King* in view of U.S. Patent No. 6,009,410 to LeMole et al. was withdrawn because the cited references were not properly combinable. See Final Office Action mailed June 14, 2005, page 4.

In summary, the primary reference clearly does not anticipate the claims. Furthermore, the recited combination, presented to remedy the shortcomings of the primary reference, is improper because the secondary reference is simply not prior art. Therefore, this final rejection of claims 21 to 41 is improper and should be withdrawn.

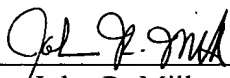
VIII. CONCLUSION

For the foregoing reasons, the Appellant respectfully requests the Board of Patent Appeals and Interferences reverse the Examiner and remand this application for issuance.

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CLAIMS APPENDIX

1. – 20. (Canceled)

21. (Previously presented) A method of supplementing an experience of a visitor to a public space, the public space including a plurality of public space elements and information relating to the plurality of public space elements, the method comprising:

receiving an input relating to one of the plurality of public space elements from a visitor when a visitor is in the public space; and

sending supplemental information to the visitor when the visitor is outside of the public space based on the received input.

22. (Previously presented) The method of claim 21 wherein said receiving includes receiving an electronic transmission from the visitor while the visitor is in the public space.

23. (Previously presented) The method of claim 22 further comprising electronically transmitting selection information to the visitor while the visitor is in the public space and wherein said input is selected from the transmitted selection information

24. (Previously presented) The method of claim 23 wherein said input is one of a bookmark, a keystroke and a response to a query.

25. (Previously presented) The method of claim 21 wherein said input is one of a bookmark, a keystroke and a response to query.

26. (Previously presented) The method of claim 25 wherein said input includes identification information relating to the visitor.

27. (Previously presented) The method of claim 21 wherein said sending includes identifying supplemental information from an information database based on the received input; and

transmitting the identified supplemental information to the visitor via a data transmission network extending beyond the public space.

28. (Previously presented) The method of claim 27 wherein the transmitted supplemental information includes one or more links to additional supplemental information.

29. (Previously presented) A method for providing information about a public space element in a public space to a visitor after the visitor has left the public space, the method comprising:

transmitting electronically, within the public space, information about a plurality of public space elements, wherein the transmitted information includes selection information that designates one or more pieces of supplemental information about at least one of the plurality of public space elements;

receiving an electronic response to the transmitted information, said electronic response including visitor selection information;

retrieving supplemental information related to one of the plurality of public space elements in response to the received electronic response; and

sending electronically the retrieved supplemental information to a communications network extending beyond the public space using address information related to the visitor supplying selection information.

30. (Previously presented) The method of claim 29 wherein the electronic response includes one of a bookmark, a keystroke and a response to a query.

31. (Previously presented) The method of claim 29 wherein the transmitted information includes audio content relating to the public space element.

32. (Previously presented) The method of claim 31 wherein the transmitted information further includes text content relating to the public space element.

33. (Previously presented) The method of claim 29 wherein said selection information comprises text content.

34. (Previously presented) A system providing information about one or more elements in a public space to a visitor to the public space after the visitor has left the public space, comprising;

- a portable selection device including a first transceiver,
- an internal information transmission system including a second transceiver, said first and said second transceivers forming a bi-directional data path between said portable selection device and said internal information transmission system within the public space;
- a database in communication with said internal information transmission system; and
- an external information transmission system coupled to said database and a data network external to the public space, said external information transmission system responsive to a visitor information selection received from said portable selection device by said internal information transmission system and sending information selected from said database to the data network.

35. (Previously presented) A method for supplying supplemental information about public space elements in a public space to a visitor after the visitor has left the public space, the method comprising:

- receiving an electronic request for first information about a public space element from a visitor in the public space;
- transmitting electronically said first information to the visitor in the public space;
- receiving an electronic supplemental information selection from the visitor in the public space;
- associating visitor identification information with said electronic supplemental information selection;
- receiving an electronic inquiry from the visitor after the visitor has left the public space;

responding to said electronic inquiry with supplemental information selected based on the received electronic supplemental information selection associated with visitor identification information corresponding to the visitor from whom the electronic inquiry was received.

36. (Previously presented) A method of supplementing an experience of a visitor to a public space, comprising:

receiving an electronic input relating to an element within the public space from a visitor while the visitor traverses the public space;

associating the received input with identification information associated with the visitor;

receiving an electronic request for additional information from the visitor after the visitor has left the public space, said electronic request including identification of the visitor;

transmitting a response to said electronic request wherein said response is based, in part, on the received input associated with the identification information related to the visitor.

37. (Previously presented) The method of claim 36 wherein said receiving includes receiving a wireless electronic signal generated from a portable handheld device that traverses the public space with the visitor.

38. (Previously presented) The method of claim 37 wherein said receiving includes receiving the wireless electronic signal over a first network having transmission capabilities limited to the public space.

39. (Previously presented) The method of claim 38 wherein said receiving said electronic request and said transmitting a response are executed over a second network different from said first network.

40. (Previously presented) The method of claim 39 wherein the received input comprises an electronic bookmark.

41. (Previously presented) The method of claim 40 wherein the public space is one from the group of a museum, a gallery or an exhibition.

EVIDENCE APPENDIX

NONE

RELATED PROCEEDINGS APPENDIX

NONE

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